

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF THE INTERNATIONAL
UNION OF OPERATING ENGINEERS
LOCAL 30 BENEFITS FUNDS,

Plaintiff,

—against—

EVENT RESOURCE PROFESSIONALS,
INCORPORATED,

Defendant.
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Case No. 18-CV-1274

COMPLAINT

Plaintiff, Trustees of the International Union of Operating Engineers Local 30 Benefit Fund (hereinafter referred to as the “Funds”) or (collectively referred to as “Plaintiffs”) by their attorneys Barnes, Iaccarino & Shepherd LLP allege as follows:

JURISDICTION AND VENUE

1. This action is based on the provisions of Section 301 of the Labor Management Relations Act of 1947 (hereinafter referred to as the “Taft-Hartley Act”) 29 U.S.C. Section 185, and on Section 502(a)(3) and Section 515 of the Employee Retirement Income Security Act, as amended (hereinafter referred to as “ERISA”) (29 U.S.C. Section 1132(a)(3) and 29 U.S.C. 1145).

2. Jurisdiction is conferred upon this court by section 301 of the Taft-Hartley Act (29 U.S.C. Section 185) and Sections 502(e)(1) and 502(f) of ERISA (29 U.S.C. Sections 1132(e)(1) and 1132(f)); and derivative jurisdiction is contained in 28 U.S.C. Sections 1331 and 1337.

3. Venue properly lies in this District under the provisions of 502(e)(2) of ERISA (29 U.S.C. Section 1132(e)(2)) and Section 301 of the Taft-Hartley Act (29 U.S.C. Section 185) and 28 U.S.C. Section 1391(b).

4. This action is brought by the respective Trustees of the Funds in their fiduciary capacities for injunctive relief, monetary damages and other equitable relief under ERISA and for breach of contract to secure performance by and Employer of the obligation to abide by and comply with a certain arbitration award and to enforce the said award.

PARTIES

5. The Plaintiff Trustees are, at all relevant times, the fiduciaries of jointly administered multi-employer, labor management trust funds as defined by Section 3(21)(A) and Section 502(a)(3) of ERISA (29 U.S.C. Sections 1002(21)(A) and 1132(a)(3)). The funds are established and maintained by the International Union of Operating Engineers, Local 30 (hereinafter referred to as the "Union") and various Employers pursuant to the terms of the Collective Bargaining Agreements and Trust Indentures in accordance with Section 302(c)(5)(1) of the Taft-Hartley Act (29 U.S.C. Section 186(c)(5)). The Funds are employee benefit plans within the meaning of Sections 3(1), 3(2), 3(3) and 502(d)(1) of ERISA (29 U.S.C. Sections 1002 3(1), 3(2), 3(3) and 1132(d)(1)), and multi-employer plans within the meaning of Sections 3(37) and 515 of ERISA (29 U.S.C. Sections 1002(37) and 1145). Plaintiffs are the Trustees of the Funds and the "plan sponsor" within the meaning of Section (3)(16)(B)(iii) of ERISA (29 U.S.C. Section 1002(16)(B)(iii)).

6. The Funds provide fringe benefits to eligible employees, retirees and their dependents on whose behalf the Employer is required to contribute to the Funds pursuant to its Collective Bargaining Agreement (hereinafter referred to as the "C.B.A.") between the Employer

and the Union. The funds are authorized to collect in a timely fashion contribution benefits on behalf of the employees employed by the Employers, and the Plaintiff Trustees as fiduciaries of the Funds are authorized to maintain suit as independent legal entities under Section 502(d)(1) of ERISA (29 U.S.C. Section 1132(d)(1)) and are obligated to bring actions to enforce the provisions of the C.B.A. and Trust Indentures that concern the protection of employee benefit rights.

7. The Funds' principal office is located and administered at 16-16 Whitestone Expressway, 5th Floor, Whitestone, New York 11357.

8. The defendant Event Resource Professionals, Inc. is upon information and belief a corporation duly organized and existing under the laws of New York State with its principal office and place of business located at 557 W. Walnut Street, Long Beach, New York 11561.

AS AND FOR A FIRST CLAIM FOR RELIEF

9. Plaintiffs repeat and re-allege each and every allegation contained in paragraphs 1 through 7 of this Complaint as if fully set forth herein.

10. The Union and Event Resource Professionals, Inc. are parties to a certain collective bargaining agreement ("CBA") covering certain of its employees.

11. The CBA and/or Trust Indenture required the Employer to submit contribution reports setting forth the hours that each of its employees worked and the amount of contributions due pursuant to the rate schedules set forth in the CBA for all work performed by its employees covered by the C.B.A. and to remit such monetary contributions in the accordance with the CBA and the rules and regulations established in the Trust Indenture.

12. The C.B.A. and/or new Trust Indenture require the employer to submit to an audit to ensure that the proper contributions were remitted to the Funds.

13. An Audit was conducted by the Funds.
14. An Audit request was sent to the Employer however the Employer refused to submit and audit.
15. The Funds submitted a Demand for Arbitration to the Arbitrator Roger E. Maher.
16. A hearing was duly held by Arbitrator Roger E. Maher on July 10, 2017 at the offices of the Funds auditors, Marshall & Moss.
17. An Award of Arbitrator Maher was issued on July 13, 2017.
18. The said Awards provided that the Employer was delinquent in benefit monies due under the C.B.A..
19. Event Resource Professionals, Inc. has failed and refused to comply with the Award.

WHEREFORE, the Plaintiff prays that this Court enter an Order and Judgment confirming and enforcing the said Award; granting judgment against Event Resource Professionals, Inc.; awarding plaintiff Union reasonable attorney fees and the costs and disbursements of this action; and granting plaintiff such other, further or different relief as the Court may deem just, proper or equitable.

Dated: Elmsford, New York
February 23, 2018

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